

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of GTE Corporation, Transferor)
and Bell Atlantic Corporation, Transferee) CC Docket No. 98-184
For Consent to Transfer of Control)

REPLY COMMENTS OF MCI WORLDCOM, INC.

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MCI WORLDCOM, Inc. (“MCI WorldCom”) hereby submits its reply comments opposing the joint application of Bell Atlantic Corporation (“Bell Atlantic”) and GTE Corporation (“GTE”) for approval of their proposed merger.

The overwhelming majority of those commenting on the proposed Bell Atlantic-GTE merger oppose it because they recognize that the merger would produce the worst of both worlds: no more competition out-of-region than would occur without the merger, and substantially less competition in-region. The public interest is not served by enabling Bell Atlantic and GTE to become even more successful in thwarting local exchange competition than they have been over the past several years. Nor is the public interest served by eliminating competition between GTE, with long-standing premerger plans to compete against Bell Atlantic, and Bell Atlantic, which now takes the position that it needs to compete out-of-region in order to survive.

The union of two large monopolists that collectively control over one-third of the nation’s access lines is enough in itself to require careful examination in the current environment of no competition. AT&T Petition to Deny 8-12;¹ Sprint Petition to Deny 27-31; Level 3 Comments 2-3; Focal Comments 2-3; Consumer Federation of America and Consumers Union (“CFA/CU”) Comments 1. CLECs like MCI WorldCom — with substantial money on the line and facing determined opposition to get into local phone service — all report a deeply disturbing pattern of obstructionism on the part of Bell Atlantic and GTE to prevent local exchange competition from developing. *See* MCI WorldCom Comments 6 -13. Commenters highlight that Bell Atlantic has openly defied the Commission’s order imposing conditions to ameliorate the anticompetitive effects of the Bell Atlantic-NYNEX merger, going so far as to deny the Commission’s authority

¹Comments and petitions to deny are cited by the name of the party that filed them.

to enforce the order that Bell Atlantic encouraged it to adopt. AT&T Petition to Deny 52-55; Sprint Petition to Deny 85-91; Level 3 Comments 13; e.spire Comments 7; Hyperion Comments 17; MCI WorldCom Comments 7-11.

Most commenters note that the alleged *raison d'être* of the merger — that Bell Atlantic needs GTE as an “enabler” and that GTE needs Bell Atlantic’s “anchor customers” in order to permit either to compete to provide local phone service out-of-region — is absurd. Many commenters point to GTE’s widely publicized plans to compete out-of-region prior to announcement of its merger with Bell Atlantic and its effective positioning to do just that. Level 3 Comments 17; Sprint Petition to Deny 59-68; AT&T Petition to Deny 44-52; Focal Comments 14-16; MCI WorldCom Comments 16-20. GTE’s existing national customer base as an Internet service provider (“ISP”) and also as a long-distance carrier increases both its ability and its incentive to pursue on its own a national strategy to provide a bundle of local, long distance, and Internet services. MCI WorldCom Comments 18. Commenters explain GTE’s actual plans to compete against Bell Atlantic. Sprint Petition to Deny 14-20; e.spire Comments 5; AT&T Petition to Deny 26-29; MCI WorldCom Comments 22-24.

As for Bell Atlantic, commenters recognize that the “enabler” theory is a sham. If Bell Atlantic truly wishes to compete out-of region, it can do so on its own. Bell Atlantic has huge resources that would enable it to implement a strategy that it considers vital to its survival. AT&T Petition to Deny 8-12; Level 3 Comments 10; Focal Comments 10, 14-16; MCI WorldCom Comments 20-21. The fact that Bell Atlantic has not done so to date is not a reason to approve this merger; on the contrary, it raises questions whether Bell Atlantic is indeed serious about competing out-of-region even after the merger. In short, Bell Atlantic’s ability and incentive to compete out-of region would not change if the merger were consummated.

All of these factors demonstrate that the Commission must carefully examine whether this merger will eliminate a significant potential competitor in Bell Atlantic's region, as well as eliminate a significant potential competitor in GTE's region. That is the principal reason why it is critical for the Commission and interested parties to have access to Bell Atlantic's and GTE's relevant documents. MCI WorldCom Comments 58-60.

Commenters also note the obvious negative effect this merger will have on the ability of regulators and competitors to benchmark. Sprint Petition to Deny 40-55; AT&T Petition to Deny 20-22; MCI WorldCom Comments 32-37. The purpose of benchmarking is to compare the performance of incumbent local exchange carriers ("ILECs") and make it possible to measure whether ILECs are doing what can be done to open their local markets to competition — and whether they are providing monopoly services including exchange access on reasonable and nondiscriminatory terms. If the SBC-Ameritech merger is allowed to proceed along with the Bell Atlantic-GTE merger, the number of major ILECs available to benchmark will be reduced to four. In the current environment, with no meaningful local exchange competition anywhere, a reduction in the ability to benchmark would be a serious blow to efforts to pry open local phone markets everywhere.

No commenter seriously disputes that GTE will have to immediately cease providing any interLATA telecommunications and information services in all Bell Atlantic states where Bell Atlantic lacks section 271 authority. Commenters agree with MCI WorldCom that the Commission should immediately disabuse Bell Atlantic of any belief that "transitional relief" might be available in lieu of full compliance with the requirements of section 271. AT&T Petition to Deny 36-41; e.spire Comments 6; MCI WorldCom Comments 52-58. To permit Bell Atlantic to believe otherwise would defeat the critical market-opening incentives created by

section 271, and would be directly contrary to the Commission's recent order approving the SBC-SNET merger, requiring SNET to cease originating all interLATA traffic in SBC's region.² For every state in which Bell Atlantic does not have section 271 authority, GTE would have to divest all of its interLATA business in that state, including any interLATA information service provided by or through GTE Internetworking.

No commenter disputes MCI WorldCom's showing that the merger would threaten the vibrant competition that exists today in Internet services by giving Bell Atlantic and GTE bottleneck control over access by and to one-third of residential and business customers that use the Internet. MCI WorldCom Comments 39-52. This snowball effect would be triggered if the merged company gains a disproportionate share of Internet traffic by continuing to abuse bottleneck control over high-bandwidth xDSL services to residential and small business Internet users, and by imposing inflated access charges on Internet traffic. *Id.* 41-52. If permitted to become through merger and bottleneck control a dominant ISP, Bell Atlantic-GTE would be able to exert power over Internet content providers and advertisers.³ For example, Bell Atlantic-GTE would control the first screen that it displays on the "portal" to which it steers its captive customers, and content providers and advertisers that want to be featured on that screen would have to do business with Bell Atlantic-GTE on its terms. In sum, the threat posed by the

² *In re Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Southern New England Telecommunications Corporation, Transferor, to SBC Communications, Inc., Transferee*, Memorandum Opinion and Order, ¶ 36, CC Docket No. 98-25, FCC 98-276 (rel. Oct. 23, 1998).

³ Moreover, MCI WorldCom believes that Bell Atlantic's current provision of Internet services is unlawful, in violation of sections 271 and 272 of the Act. See MCI WorldCom Comments 57 (citing MFS Communications Company's Petition for Reconsideration, *In the Matter of Bell Atlantic Telephone Companies Offer of Comparably Efficient Interconnection to Providers of Enhanced Internet Access Services*, CCBPol 96-09 (filed July 3, 1996)).

proposed SBC-Ameritech and Bell Atlantic-GTE mergers, singly and in combination, deserves the Commission's serious attention.

The few commenters that support the merger (mainly a few large business customers of Bell Atlantic, the Communications Workers of America, and the Competitive Enterprise Institute) have not undertaken a complete analysis of the merger's competitive impact and therefore fail to justify Commission approval. This is made all the more clear by the overwhelming opposition to the merger of parties who represent the interests of residential and small business customers. *See generally* CFA/CU Comments; New Jersey Coalition Comments; Consumer Groups Comments (representing 14 consumer groups in 13 states). They oppose the merger because they already realize that this merger offers them nothing — a fact that the few large business customers who now support the merger will come to recognize in time.


The application of Bell Atlantic and GTE should be denied. If the Commission decides to consider granting the application subject to conditions, it should seek public comments on specific potential pre-conditions before reaching any conclusion.

Respectfully submitted,

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Dated: December 23, 1998

CERTIFICATE OF SERVICE

I, R. Dale Dixon, Jr., do hereby certify that on this 23rd day of December, 1998, I served by first-class United States mail, postage paid, a true copy of the forgoing Reply Comments upon the following:

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